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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,714	06/23/2003	Patrick Li	29250-000870/US	5753

7590 03/14/2007  
HARNESS, DICKEY & PIERCE, P.L.C.  
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EXAMINER	
SMITH, CREIGHTON H	

ART UNIT	PAPER NUMBER
2614	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/14/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/600,714	LI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Creighton H. Smith	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 26 is/are allowed.
- 6) ☒ Claim(s) 1-7, 15, 16, 20, 21, 22, 25 is/are rejected.
- 7) ☒ Claim(s) 8-14, 17-19, 23 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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Examiner disagrees with applicant's arguments Lu's system is static. On the contrary, Lu et al specifically disclose a "**dynamic allocation**" of RF power – col. 2, lines 11, 28/29. In fact all wireless systems such as Lu's that are trying to get the optimum QoS are operating in a dynamic environment because, on an asynchronous basis, user equipment handsets are setting up and tearing down calls of various bandwidths. A system such as Lu's must constantly monitor their cell sites for those handsets requiring high data bandwidths and low data bandwidths for voice calls. To say that system like this is static is incorrect. Lu et al further disclose in col. 5, lines 35-40, that their cell sites collect measurements during a sampling interval. These sampling intervals are vital for the proper functioning of the cell site in order to allocate the proper power to the handsets that are requesting the power. With handsets constantly being turned "on" and "off", along with those handsets requesting differing power levels, this sampling interval that Lu discloses is proof that Lu's method is dynamic and not static.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 15, 16, 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lu et al '462.

Lu et al disclose, col. 2, lines 25 et seq, a method is provided for the utilization of system resources in a wireless communication system, based on the allocation of system resources among a plurality of users. Lu's method further provides for dynamic allocation of power and system resources in proportion to user requirements in order to achieve the optimum resource allocation. Lu et al invention operates to determine the allocation of wireless resources to each wireless user served that will optimize transmission resources while meeting QoS for the wireless users. After Lu et al have allocated their system's resources to the wireless users who have requested service, Lu determines the total allocation of resources and then compares that total with a ceiling transmission resource level. Then, Lu allocates a portion of that difference, i.e., the total resources allocated subtracted from ceiling resource level. Lu et al disclose in col. 1, lines 45-65, that their base stations manage resources such as output power and data rate. Output power and data rate are related – the output power necessary for a link with a user that increases as the data rate increases. Upon request for entry to the wireless network by the user, the base station evaluates the user's data rate and power demands against the current user environment and power demands, i.e., the load condition on the wireless network.

Therefore, in order to meet the system's QoS requirement, Lu's system must evaluate the total load on the system and then either admit additional wireless users or deny entry of additional users based on their demand requirements – see col. 3, lines 13-17.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 5, 21, 22, 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al in view of Joshi, U.S. patent Publication #2004/0143842.

Joshi describes other parameters/metrics to achieve QoS in his/her wireless system. Some of those parameters are the number of active users or total bandwidth use, [0037]. To have provided Joshi's teaching of using the total number of active users or total amount of bandwidth used in Lu et al wireless system would have been obvious to a person having ordinary skill in the art, because with Joshi's disclosure in [0037] of achieving a certain QoS, the person possessing ordinary skill in the wireless telecommunications art will readily realize that the elements of the secondary reference – Joshi are easily combinable with Lu et al.

Claims 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al in view of Joshi as applied to claim2 above, and further in view of Achour et al, U.S. Patent Publication #2003/0060208.

Achour et al disclose in [0045] that a supplemental channel burst is based upon a predetermined threshold value. To have provided this in Lu et al CDMA, col. 3, line 45, wireless system would have been obvious to a person having ordinary skill in the art.

Claims 7, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu et al in view of Joshi and Achour et al as applied to claim 2 above, and further in view of Mudigonda et al, U.S. patent Publication #2204/0176090.

Mudigonda et al disclose in [0022] a CDMA2000 network, and in [0051] a supplemental channel burst based on certain thresholds. To have provided Mudigonda et al teaching of a CDMA200 network using SCH burst into Lu et al would have been obvious to a person having ordinary skill in the art.

Claims 8-14, 17-19, 23, 24, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 is allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication should be directed to Creighton H.

Smith at telephone number 571/272-7546.

A handwritten signature in black ink, appearing to read "Creighton H. Smith". The signature is written in a cursive, flowing style.

09 MAR '07

Creighton H Smith  
Primary Examiner  
Art Unit 2614